IN THE CIRCUIT COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA
GENERAL JURISDICTION DIVISION

ALLAN LEVINE a/k/a ALAN LANDERS,	:	
Plaintiff,	:	CASE NO. CL 95-9876(AA)
v.	:	
R.J. REYNOLDS TOBACCO COMPANY, a foreign corporation; BROWN & WILLIAMSON TOBACCO CORPORATION, a foreign corporation; LIGGETT GROUP, INC., a foreign corporation; ABC LIQUORS, INC., a Florida corporation,	:	
Defendants.	:	

Videotaped Deposition of

LAURENCE MARK WASSONG

PINE CREST INN, 85 PINE CREST LANE

TRYON, North Carolina

Thursday, September 12, 2002

Reported by: Sydney C. Silva, RPR
Notary Public

VIVIAN TILLEY & ASSOCIATES
Court Reporters
5813 Shawood Drive
Raleigh, NC 27609 (919)847-5787

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ATTORNEYS OF RECORD PRESENT

For the Plaintiff:

CLIFFORD E. DOUGLAS, ESQUIRE
3189 Rumsey Drive
Ann Arbor, Michigan 48105-3437
Telephone: 734-332-0080
Fax: 734-332-0081
[DELETED]
(Appearing via telephone)

For the Defendants:

JOHN F. YARBER, ESQUIRE
JEAN-PAUL BOULEE
Jones, Day, Reavis & Pogue
3500 SunTrust Plaza
303 Peachtree Street
Atlanta, Georgia 30308-3242
Telephone: 404-532-3939
Fax: 404-581,8330
[DELETED]
For R.J. Reynolds

KELLY ANNE LUTHER, ESQUIRE
Clarke Silvergate Campbell
Williams & Montgomery
799 Brickell Plaza, Ninth Floor
Miami, Florida 33131
For: Liggett Group
(Appearing via telephone)

JULIE FEIGELES, ESQUIRE
Adorno & Yoss, P.A.
2601 S. Bayshore Drive, Suite 1600
Miami, Florida 33133
For: Brown & Williamson
(Appearing via telephone)

Witness Address:

LAURENCE MARK WASSONG
[DELETED]

ALSO PRESENT: ROBERT C. SMITH, VIDEOGRAPHER

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S T I P U L A T I O N S

Pursuant to notice and/or consent of the parties, the deposition hereon captioned was conducted at the time and location indicated and was conducted before Sydney C. Silva, Notary Public in and for the County of Mecklenburg, State of North Carolina at Large.

Notice and/or defect in notice of time, place, purpose and method of taking of the deposition was waived. Formalities with regard to sealing and filing the deposition were waived, and it is stipulated that the original transcript, upon being certified by the undersigned court reporter, shall be made available for use in accordance with the applicable rules as amended.

It was stipulated that objections to questions and motions to strike answers are reserved until testimony, or any part thereof, is offered for evidence, except that objection to the form of any question shall be noted herein at the time of the taking of the testimony, and that

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objections based on questions calling for privileged information or work product may be made and the witness may defer answer until he or she may be instructed to answer by the Court after motion to compel by the questioning party.

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CONTENTS

THE WITNESS	EXAMINATION
LAURENCE MARK WASSONG	
EXAMINATION BY MR. YARBER:	7
EXAMINATION BY MR. DOUGLAS:	34
FURTHER EXAMINATION BY MR. YARBER:	56
FURTHER EXAMINATION BY MR. DOUGLAS:	58

EXHIBITS

NUMBER		IDENTIFIED
1-4	Advertisements	6

http://legacy.library.ucsf.edu/tid/qiq07a00/pdf Byhttp://www.industrydocuments.ucsf.edu/docs/jfgl0001

P R O C E E D I N G S

(Deposition Exhibits Nos. 1 through 4 marked for identification.)

THE VIDEOGRAPHER: This is the videotaped deposition of Laurence Wassong, taken by the Defendant in the matter of Allan Levine, also known as Alan Landers, Plaintiff, versus R.J. Reynolds Tobacco Company, a foreign corporation, et. al., Defendants, in the Circuit Court of the 15th Judicial Circuit Court in and for Palm Beach County, Florida, General Jurisdiction Division, Case Number CL 95-9876 (AA).

This deposition is being held in the Pine Crest Inn located at 85 Pine Crest Lane, Tryon, North Carolina. Today's date is September 12, 2002; the time is 12:06 p.m. The court reporter is Sydney Silva representing Vivian Tilley & Associates located in Raleigh, North Carolina. The videographer is Robert C. Smith with the firm of Video Visions Incorporated, located in Apex, North Carolina.

Would counsel now please introduce

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themselves.

MR. YARBER: This is John Yarber for R.J. Reynolds Tobacco.

MR. BOULEE: Jean-Paul Boulee, R.J. Reynolds Tobacco.

MS. LUTHER: Kelly Luther for Liggett Group.

MS. FEIGELES: Julie Feigeles for Brown & Williamson.

MR. DOUGLAS: Cliff Douglas representing Mr. Landers.

THE VIDEOGRAPHER: Would the court reporter please swear in the witness.

Whereupon, LAURENCE MARK WASSONG, having been duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. YARBER:

Q. Good morning, sir, how are you?

A. Good morning.

Q. Could you please tell us your full name for the record?

A. Laurence, with a U, Mark Wassong, W-A-S-S-O-N-G.

Q. Mr. Wassong, my name is John Yarber,

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and I represent R.J. Reynolds Tobacco Company in this matter. Have you ever been deposed before today?

A. Never.

Q. Well, let me just go over a couple of ground rules for you so you know how the process will work. First of all, if you could just answer verbally yes and no instead of shaking your head so the court reporter can take down your answer.

If you could just let me finish my question and I'll try and let you finish your answer so we don't talk over one another for the court reporter's benefit.

Finally, if you would just give the most complete and truthful answers you can, and we'll get started. Is that okay?

A. Yes.

Q. Where do you live, sir?

A. My address is

[DELETED]

Q. And we are here today in

[DELETED]

A. Yes.

Q. What is your current occupation?

A. I'm retired.

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Q. And how long have you been retired, sir?

A. About 10 years.

Q. And where did you work before you retired?

A. Prior to retiring I worked for an agency called Campbell Mithune Esty. It was a result of a merger between Campbell Mithune, a Chicago agency or Minneapolis agency, and William Esty. It was created during a period of four years of acquisitions. If you want me to give the history of that, I can.

Q. What year did William Esty and Campbell Mithune merge?

A. William Esty was originally acquired by Ted Bates Advertising in 1984; then both were acquired by Saatchi & Saatchi in 1986. And then Saatchi management merged or dissolved a number of agencies after that.

Q. And before the merger in 1984, did you work for the William Esty company?

A. Yes, sir.

Q. And what types of advertising did William Esty work on?

A. William Esty Advertising was about the

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12th largest U.S. agency; it only had one office; it was a profitable agency. It was founded in 1932 with the R.J. Reynolds business. R.J. Reynolds was a client of William Esty's for about 54 years.

Its other accounts were domestic packaged goods advertisers such as Colgate Palmolive, Warner Lambert, Cheeseborough-Ponds, Union Carbide, American Home Products, Maxell, eventually Nissan Motor, Nabisco for in excess of 26 years until RJR and Nabisco merged.

The agency never had more than 15 clients in its total history but they were all Blue Chip clients.

Q. And when did William Esty stop doing the work for R.J. Reynolds?

A. I believe it was 1986.

Q. When did you start working at William Esty?

A. 1973.

Q. And did you work at William Esty continually until you retired around 1992?

A. Yes, sir.

Q. What was your job for William Esty when you first started with the company?

A. I was First Senior Vice President and

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accounts supervisor on Warner Lambert; and I worked on a division of Warner Lambert called American Chicle.

Q. And what was your responsibility on behalf of Warner Lambert?

A. The marketing and advertising of a number of established Chicle brands and new test products.

Q. And did there come a time when you were promoted or worked for a different client at William Esty?

A. I started work for R.J. Reynolds about six months after that.

Q. Would that have been around 1974?

A. I don't know the exact date, but either side of '73/'74.

Q. And in addition to your work for Warner Lambert and RJR -- well, let me strike that and start over.

How long did you work on the RJR business?

A. Until it left William Esty.

Q. Did you work for any other clients besides Warner Lambert and RJR during your time at William Esty?

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A. I became President of the agency, well, I became Executive Vice President of the agency and I worked heavily on Seagrams and to some degree on Cheeseborough-Ponds. When I became President, I had contact with all clients.

Q. And what position were you at William Esty when you retired?

A. I, I was President and Chief Operating Officer.

Q. Now with respect to the R.J. Reynolds business starting in 1973/1974, what were your initial responsibilities?

A. The Winston brand.

Q. Was there a time when you worked on any other brands besides the Winston brand?

A. Yes. We lost Winston and we were given Camel. And I was eventually promoted -- I think when I was promoted to Executive Vice President I worked on Camel, Salem and Doral.

Q. What were your job responsibilities on the Winston ad campaign?

A. Advertising is quite complicated so it is kind of difficult to talk about the total responsibilities, but I'll try to.

Winston -- like all tobacco

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advertising, I believe -- had come to an agreement with the U.S. government in 1971 with something called the consent decree. It was an agreement rather than a law, I believe, that removed tobacco from advertising and broadcast medium.

Q. When you say removed it from advertising and broadcast medium, are you referring to television?

A. Yes, and radio.

Q. And radio?

A. Any form of broadcast. I think it also included the Surgeon General's warning being advertised in it, and it included a number of other items that R.J. Reynolds conveyed to us over time that we could or could not do in our advertising.

We had a Legal Department and they had a Legal Department that abided by, by much of this.

The main objective that we had was to continue Winston's dominance in the United States by translating its television campaign to a print campaign. An advertiser or a marketer that had done that much better was Marlboro. Marlboro had no problem moving from television to print with the cowboy. As a matter of fact, people used to say that they heard the music playing when they saw a

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prints ad.

We had an advertising theme that was created 1953 or '56, I wasn't around, but that's the approximate time, maybe '56, "Winston tastes good like a cigarette should." The constant of the campaign was based on the fact that filters were first introduced and a filter cigarette wouldn't taste as good as regular cigarette but Winston tasted as good as a cigarette should.

Q. You mentioned just a minute ago that there were things that Reynolds conveyed to you over time that you could not do in advertising?

A. Uh-huh.

Q. What were some of the things that Reynolds conveyed to you that you were not allowed to do in advertising?

A. In terms of model selection, any model had to be, had to prove that they were 25 years of age; and Reynolds, in terms of spirit of the law, said that they had to look 25 or older.

It was fairly discretionary, but it was always obvious when it was wrong.

We could never show a model in any kind of athletic pursuit. We could never show a model that looked like someone famous because that

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would be implied endorsement.

We could never use a model that had been on television or the movies because that would, again, be implied endorsement.

And there were a whole list of rules in terms about the size and placement of the Surgeon General's warning being placed prominently and the amount of millimeters that it had to be. We had in excess of maybe 250 or 300 different outdoor advertising formats and point-of-purchase format, whether it is an in-and-out push decal for a door. We did those. Stadium advertising, giant billboards, small billboards in ethnic neighborhoods, et cetera. Every one of them had to have Surgeon General compliant.

Q. Was it your responsibility when working on the Winston brand to make sure the modeled proved they were age 25?

A. No. I supervised it, I guess you could say; but it was the casting director and the creative director's responsibility.

Q. Did you always make sure that the models were 25 before you used them in an advertisement?

A. We, we would take their head sheets of

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Polaroid, previous ads they had done, and a sworn statement by them and a copy of their driver's license to R.J. Reynolds.

Q. Were you responsible or was someone else responsible for making sure the models looked 25?

A. That was a kind of a round-the-table agreement. You know, when models were presented, Reynolds would say or we would -- well, we wouldn't bring it if we had any doubt. But they might say, "I think she looks too young."

Q. Were there times that you can recall where you would bring a model and Reynolds would veto the use of that model because of the age?

A. Frequently.

Q. And how long was this age requirement policy in place?

A. Since '71.

Q. And was it a policy that you in your capacity working on Winston always followed?

A. Yes.

Q. Now are you familiar with some of the advertising campaigns? Do you have a recollection of some of the campaigns that were being run or created during the early 1970s?

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A. Yes.

Q. Do you remember a campaign entitled "Winston's Down Home Taste"?

A. Yes. That was just when I got on the business.

Q. Did you do any work on the "Down Home Taste" campaign?

A. No.

Q. Are you familiar with an advertising campaign for Winston entitled, "How Good It Is"?

A. It may have been a test campaign at the time. I'm not sure. Winston was, as I mentioned, looking for kind of a Holy Grail which was a way of translating the taste campaign, "Winston Tastes Good." Everything we did were taste-derived campaigns.

There was no time that I worked for R.J. Reynolds that we didn't have advertising in some form of test, advertising being developed. I mean, as many as 300 or 400 campaigns a year would be developed. Some would go national for a while, some would go into test market. So there was an enormous amount of advertising that we put out looking for the campaign to compete with Marlboro or initially to translate from "Winston Tastes

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Good."

Q. During the time you were at William Esty and worked on the Winston campaign what was the theme of the Winston advertising?

A. I think it -- there were a number of themes. I don't know if you mean strategy more than theme?

Q. Well, was there, was there an overriding or pervasive theme that no matter what campaign you had there was always an underlying point to the campaign?

A. No. That changed over time.

Initially, it was taste. Research indicated that what smokers wanted was good taste in a cigarette and we were the preferred tasting cigarette. We had always been the Number 1 brand. Marlboro was in close pursuit, and we continued to hammer away at taste.

Q. Now you mentioned for me a few other requirements or restrictions on the models. One was that you could not show models in an athletic pursuit?

A. Right.

Q. Another was you could not show models that looked like someone famous?

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A. That's right.

Q. The third was you could not use a model who had appeared in TV or the movies before the ads --

A. That's right.

Q. -- were published? How long were those --

A. For -- I'm sorry.

Q. I'm sorry, go ahead.

A. For a competitive cigarette ad.

Q. How long were those restrictions in place?

A. They were -- I don't know when they were established. They were in place the entire time I worked on RJR.

Q. So those restrictions about not showing models in athletic pursuit or that looked famous or were on TV or competitive cigarette ads was in place at least since 1973?

A. Since, yes.

Q. And were those policies that you, while working with Winston, always followed?

A. Yes.

Q. How did you verify, for example, if a model had been in television or movies?

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A. It was difficult because all we had to go on was their word. Sometimes we would just catch it by having a person walk in or say, "Gee, weren't you in something?"

And they would say, "Yes."

And we would say, "Well, we're sorry, we can't use you." Even though it was 20 or more years ago, we just would not use them.

Q. Who was involved in the designing of the campaigns themselves at William Esty?

A. Well, the process would work somewhat like this: That it was a, it was a very high pressure business. Once again, we were looking for a campaign that would survive testing; and testing was frequently based on R.J. Reynolds had a form of testing called an eye movement test. The ads were placed in test magazines and we would see where the, where the eye went in the ad or how long someone stayed with it.

The ads were focus group tested. People would give their reactions in a round table to testing.

The ads were eventually run in publications and there was recall testing. You read the publication, did you remember anything?

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And finally the test of all tests, did you sell any product?

The way we started a process frequently was with a group of as many as close to 100 creative people, writers and art directors. We would define the problem, which was, Marlboro overtaking Winston. We would reiterate the client's agreed-upon strategy, which was, this is the best tasting cigarette and we're going to stay with the taste promise.

And on Monday morning -- this was Friday afternoon -- I want to see 100 advertising campaigns.

They would be put up on the wall in tissue form. We'd review them for their -- this is purely subjective -- for their impact, their suitability, their stature, their potential to motivate competitive smokers to, to convert to Winston and for Winston smokers to stay with Winston.

And out of those 50 or 100 campaigns, we might select 10 for further development. Those we might test ourselves in scratch form, meaning we would find just scrap pictures and put the headline on them, the copy, and take them into research.

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Maybe five would get to the point where we would present them to R.J. Reynolds.

They would, in turn, say, you know, "These two are approved," and we would receive a budget to photograph them and test them further.

Q. Was Reynolds involved in the design of the ad campaigns or did they just approve Esty designs?

A. Well, I would say that they conveyed to me and others what they liked and didn't like. So you could say in effect, yes, they had some influence in that.

There was a Winston campaign that was done by an agency called Dancer Fitzgerald Sample and it was called a candid campaign. There was a person sitting or body shots of people saying why I like Winston. It was a candid exposition of why I liked it.

Reynolds requested that a similar campaign be done for Salem and we did that campaign. So our direction, no; but influence, yes.

Q. Whose responsibility was it to hire the models once you had created an ad campaign?

A. That was also a filtering process. We

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might talk to as many as 1,000 models in a large casting session. We might get down to 100 that met the criteria that were primarily legal criteria and maybe had some appeal. We would go through the head sheets and the Polaroid and the legal form with the client and it would just about be a yes/no.

We might get down to 50. We might put them on 35-millimeter film and take them back or go through them ourselves and say, "These are the 15 that we want to take on a shoot." Reynolds might say, "No, these are the 12 you're going to, we don't like these other ones. This person looks smirky," or something.

We might photograph 12 and put them into ads. The ads would come back in what we call cop form, which is about exactly how it is going to look in a publication. Of those 12, four might survive to go on to testing or be in publications.

So it was a screening process.

Q. Was it William Esty and in that conjunction your responsibility to hire the models or did Reynolds hire the models?

A. No, we're an agent for R.J. Reynolds so we do all the hiring for printing. We acted as

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their agent.

Q. Was there ever a time you can recall where Reynolds hired a model and said, "We want you to use this person in the ad"?

A. No.

Q. Sir, I would like to hand you a couple of Winston advertisements. I will hand these to you one at a time. If you could hold them up to the camera --

A. Okay.

Q. -- and then I'll ask you some questions about it. Just so he can get a picture. The first one is a Winston advertisement, Exhibit No. 1.

A. (Witness complies.)

Can I look at it now?

Q. Yes, please. Are you familiar with Exhibit No. 1, this Winston advertisement?

A. I believe this was prior to when I got on the business and but I do remember the campaign.

Q. Exhibit No. 1 is an advertisement from "Winston's Down Home Taste" campaign?

A. Uh-huh.

Q. Let me hand you the next one, this is Exhibit 2. This is also a Winston advertisement.

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Okay, thank you, if you want to look at that? Are you familiar with Exhibit No. 2, this Winston advertisement?

A. I'm not, I'm not familiar with the -- I seem to be more familiar with this first one because I think this was a campaign that was really ending when I came on board. I don't know if it ever ran nationally or not, I honestly don't.

Q. And that's also part of the "Winston's Down Home Taste" campaign?

A. Yes.

Q. Let me hand you one more from the "Winston's Down Home Taste" campaign, this is Exhibit 3.

Okay. Are you familiar with Exhibit 3?

A. Yes. But I'm -- can I mention something funny about this?

Q. Sure.

A. I think the Chairman of R.J. Reynolds at the time hated this campaign.

Q. You're referring to the "Down Home Taste" campaign?

A. Yeah. And the reason was that the model looked like a hippy. And I remember hearing

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that we had to retouch in his ear because no one, no one wore long hair like this, you know, that could be a decent American or something.

Q. Which model, could you point to the camera which model you are referring to?

A. (Witness complies) This.

Q. The younger gentleman in Exhibit 2?

A. Yeah, that has -- and I think there was another model, there may have been another model, too, in this, who had been hired by the art director who owned and engraving company. He has since deceased, died quite young.

But I remember that when I got on the business that I was told by Reynolds that we didn't want to see any more hippies in our advertisement.

Q. Do you recognize any of the models in Exhibits 1, 2 or 3?

A. Not at all.

Q. Have you ever -- strike that and start over.

From 1973 forward while you were working on the Reynolds advertising, did you ever use any of the models in Exhibits 1, 2 or 3 again?

A. No.

Q. Okay. Let me just hand you one more,

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this is Exhibit 4. And this is another advertisement for Winston cigarettes. If you could hold that up for the camera?

A. (Witness complies.)

Q. Okay. Are you familiar with Exhibit No. 4?

A. I think I am.

Q. And what ad campaign was that Winston advertisement from?

A. I think it was, it was part of this, or maybe a transitional campaign.

Q. When you say "a part of this," are you saying that Exhibit 4 was a transition from the Exhibits 1, 2 and 3 "Down Home Taste" campaign?

A. Yeah. I know that they didn't like this. And that when I got on, as I said, our job was to find the Holy Grail. So there was nothing that was an accepted campaign.

I wish I could go through them all; but there were campaigns called "There's a lot of good between Winston and should." There were literally hundreds of campaigns at this time that were in development to look for the correct campaign or the winning campaign or the effective campaign.

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Q. Now who was your predecessor in charge of the Winston campaign at William Esty?

A. John McCain, John Hutchinson McCain.

Q. Were his responsibilities on the Winston advertisement the same as your responsibilities?

A. Yes.

Q. Do you recall how long the "Down Home Taste" campaign actually ran?

A. It couldn't have run very long. Because there was still -- they had come off of television in '71 with "Winston tastes good like a cigarette should" and this was, you know, within a year or so. So as I mentioned, to translate "Winston tastes good like a cigarette should," a jingle into a print ad, was the daunting task of the agency and they weren't succeeding at the time.

Q. Were the models in the cigarette ads that you hired required to be cigarette smokers?

A. No.

Q. Did you care whether or not they were cigarette smokers?

A. No. If they objected to it, they wouldn't be applying for the job.

And we never, we never asked them to

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smoke because we had to -- if you ask a model to smoke and their picture is being taken, the smoke might curl up in front of a perfect shot, so we never even lit cigarettes for models. What we did was we retouched in an ash after the photograph was complete.

Q. Was there ever a time during your tenure working on the Reynolds campaigns that you ever required a model to smoke in the ads?

A. Asked them to actually light up?

Q. Yes, sir.

A. No.

Q. And what, in addition to the smoke possibly being in the picture, were there any other problems that you might run into if a model were smoking in the ad?

A. Well, the, the cigarette would burn down so you would have -- you're taking sometimes as many as two rolls of 36 exposure film in a matter of, I don't know, less than a minute; they would just be handing cameras to the photographer and they're on motor drive.

And the cigarette burned down, you would have to stop everything, you would have to light a cigarette and hand it to them. So we just

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didn't bother with it; it was much easier to retouch in a perfect ash.

Q. Was it your policy the entire time you were at William Esty to not have the models light the cigarettes?

A. It wasn't a, I don't think it was a policy; it was just, you know, it just doesn't make sense. It's like -- it just wouldn't work. It was a timesaver and it ruined photographs to have people moving around to say, "Am I holding this right?" Or, "This is being burned down," or whatever.

Q. Now you mentioned you would retouch the cigarettes?

A. Yes.

Q. Can you just tell me a little bit about that process?

A. If someone were holding a cigarette after the ad were approved -- initially, it was done by people called photo retouchers. They were artists. You would get a large piece of art -- probably a lot of these ads were done that way -- and they would go in with paint and dyes and paint on the glowing ash of the cigarette.

Eventually computers came in and you

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were able to do anything on them. You could retouch the ash on; you could actually move the cigarette, you know, to a different angle. So it, it helped photographs esthetically.

Q. Looking at Exhibits 1 through 4, can you tell looking back whether or not the cigarettes were retouched?

A. No, I, I honestly can't. There's no smoke. I would imagine that, you know, I, I can't honestly tell because there's no smoke present. There's an ash on all the cigarettes.

And the cigarette in this particular paragraph looks like it is impossible because in reality it would, it probably would be the size of a cigar. It looks too large. So it may have been retouched.

Q. And you're referring to Exhibit 3, the "Winston's Down Home Taste" advertisement?

A. Uh-huh.

Q. Do you remember at any time you were working on the Reynolds advertising a model by the name of Allan Levine?

A. No.

Q. How about a model by the name of Alan Landers?

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Byrd v. Liggett www.industrydocuments.ucsf.edu/docs/jfgl0001

A. No.

Q. Looking at the younger gentleman that's in Exhibits 1 through 4, do you recognize him at all?

A. I, I don't recognize him; I recognize the ad. And but as much as I don't recognize any of the other two or three models.

Q. Was the younger gentleman in exhibits that we have marked as 1 through 4 in the majority of prints ads for Reynolds during your time at William Esty?

A. He was never in a print ad at my time at William Esty.

Q. Did you ever refer to any of the models that appeared in a Winston ad as "The Winston Man"?

A. There was no Winston Man.

Q. Did you ever hire a model to possibly become The Winston Man?

A. There was a campaign that was in test in Salem, Oregon, called Big Red. And it never left there, but the idea was to, to call the pack Big Red. And there was a big red-headed actor or model that was used in that as a test idea.

Q. Was he going to be called "The Winston

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Man"?

A. No, I don't think so. It was something they asked us to try. I mean, they liked it; you know, in the spread of hundreds of ads, that was just one that was tested.

But our idea was to always have the, product as hero and not the smoker as hero.

Q. Looking at the younger gentleman in Exhibits 1 through 4, would he have ever been referred to as "The Winston Man"?

A. Well, in my, in my tenure there, he, he would have been eliminated immediately. If your competition was Marlboro, this was not a Marlboro type. And if we were trying to at least have people of equal stature in our ads, he would have been wrong for it.

But again, I didn't have anything to do with this campaign. When I came on, it was to develop new campaigns.

MR. YARBER: Let's take a five-minute break, I may be finished.

THE VIDEOGRAPHER: We're going off record at 12:44 p.m.

(Recess taken.)

THE VIDEOGRAPHER: We're back on

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record at 12:49 p.m.

MR. YARBER: Sir, thank you very much for your time, I have no further questions today. The attorneys on the phone may have a few questions for you.

EXAMINATION

BY MR. DOUGLAS:

Q. This is Cliff Douglas, I would like to ask a few questions, if I may?

A. Yes, sir.

Q. Mr. Wassong, how are you?

A. Fine, thank you, sir.

Q. Good. Thank you very much for the time you are spending today. My name is Cliff Douglas, and I'm an attorney representing the Plaintiff, Mr. Landers, also called Allan Levine, whose name you have heard in the last few minutes.

And I understood from the answers that you gave at the end of Mr. Yarber's questions that you are not familiar with Mr. Landers or Mr. Levine; is that correct?

A. Yes, sir.

Q. And you and I have not had an opportunity to speak before now; is that right?

A. Never, no, sir.

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Q. I just have a few questions and I won't spend too much more of your time. Let me begin. Are you aware that according to the American Cancer Society roughly nine out of 10 cases of lung cancer are caused by cigarette smoking?

MR. YARBER: Object to the form.

MS. LUTHER: Object to the form.

MR. YARBER: For the record, we may from time to time object to his questions. You can go ahead and answer.

A. No, I'm not.

Q. Incidentally, Mr. Wassong, any time an objection is made, that's just for technical legal reasons and you'll be label to go ahead and answer those questions. Okay?

A. Yes.

Q. Is it safe to say, therefore, that you are not aware of the fact that roughly nine out of 10 cases of lung cancer are caused by cigarette smoking?

MR. YARBER: Objection.

Q. During the time that Mr. Landers was modeling for your agency?

MR. YARBER: Object to the form.

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MS. LUTHER: Object to the form.

Kelly Luther again.

Q. You can answer.

A. Could you say that again so I don't say yes or no the wrong way?

Q. I didn't hear anything, was there an audible answer?

A. Could you repeat the question?

Q. I will. Would the court reporter mind repeating the question.

(Record read.)

A. That's correct, I was not aware.

Q. Do you know if your other models were aware of that fact?

MR. YARBER: Object to the form.

A. I do not.

Q. And presumably, since you did not know that fact, you did not provide that information to your models; is that correct?

MR. YARBER: Object to the form.

A. I think that's correct.

Q. Are you aware, sir, that cigarette smoking causes hundreds of thousands of deaths a year in the United States?

MR. YARBER: Object to the form.

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A. I am not aware of an exact number or a direct --

Q. Are you aware generally?

MR. YARBER: Object to the form.

A. -- or a direct cause relationship.

Q. So let me just understand. So you're not aware that cigarette smoking has a direct cause relationship to deaths among people in the United States; is that correct?

A. That's right.

MR. YARBER: Object to the form.

Q. I'm sorry, I didn't hear an answer?

A. I said, yes, that's correct.

Q. Okay, thank you.

So it is safe to say that you are not aware of this fact during the period that Mr. Landers was modeling for your agency; is that right.

MR. YARBER: Object to the form.

A. Yes.

Q. And you did not provide that information to Mr. Landers or your other models; is that correct?

MR. YARBER: Object to the form.

A. I didn't know Mr. Landers.

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Q. Sir?

A. I never knew Mr. Landers.

Q. And how about your other models?

MR. YARBER: Object to the form.

Q. Did you provide that information to your other models?

A. No.

MR. YARBER: Same objection.

Q. I keep hearing silence, I'm sorry, I don't know if there was an answer or not.

MR. YARBER: I objected, Cliff, and then Mr. Wassong said, "No."

Q. Okay. I don't know if there's a problem with the audio, but if you wouldn't mind speaking up just a little?

MS. LUTHER: I actually am having the same problem. This is Kelly Luther.

MS. FEIGELES: Me, too. You are just going completely blank, John.

MR. YARBER: Okay. We'll speak up.

MR. DOUGLAS: All right. Thanks.

BY MR. DOUGLAS:

Q. Mr. Wassong, are you aware that cigarette smoking causes more death each year in the United States than AIDS, alcohol, car crashes,

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murderers, suicides, fires, heroin and cocaine combined?

MR. YARBER: Object to the form.

A. No, I was unaware.

Q. So it's safe to say that you were not aware of that fact during the period of time that Mr. Landers was modeling for your agency, correct?

A. Yes.

MR. YARBER: Object to the form.

MR. DOUGLAS: There was silence again, I'm afraid.

MR. YARBER: I objected and then Mr. Wag Wassong answered, "Yes."

Q. Okay, thank you. And you did not provide this information to your models; is that correct?

MR. YARBER: Object to the form.

A. Correct.

Q. Are you aware, Mr. Wassong, that the nicotine in cigarettes is addictive?

MR. YARBER: Object to the form.

A. No.

Q. So again, is it safe to say that you were not aware of that fact during the period that Mr. Landers was modeling for Winston cigarettes,

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correct?

A. Yes.

MR. YARBER: Object to the form.

MR. DOUGLAS: I'm assuming there was an answer but again there was a blank there.

MR. YARBER: Sorry, Cliff. I think if Mr. Wassong and I speak at the same time you may lose the audio. I think that's what keeps happening. So we'll try to make sure we speak one at the time.

I objected to the form.

Q. Mr. Wassong gave an answer then?

A. Yes.

Q. Okay. I appreciate that, John.

Mr. Wassong, if you wouldn't mind, wait for Mr. Yarber's likely objection; and once that is done, if you could then answer, that would be great.

A. Okay.

Q. Thank you.

Are you aware that during the period that Mr. Landers was modeling for Winston cigarettes that the tobacco companies, including R.J. Reynolds, carefully controlled the amount of

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nicotine that their cigarettes delivered to smokers.

MR. YARBER: Object to the form.

A. I was not aware.

Q. So it is safe to say that you were not aware of that fact at the time that Mr. Landers was modeling for your agency, correct?

MR. YARBER: Object to the form.

A. Yes.

Q. And you did not provide that information to Mr. Landers, correct?

MR. YARBER: Object to the form.

A. Yes, correct.

Q. And did you provide that information to any of your models?

MR. YARBER: Object to the form.

A. No.

Q. Did R.J. Reynolds while you were working for the Esty agency that their cigarettes caused cancer?

A. No.

Q. Did they tell you that their cigarettes caused heart disease?

A. No.

Q. Did they tell you that their

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cigarettes caused emphysema?

A. No.

Q. Did they tell you that their cigarettes caused addiction?

A. No.

MR. YARBER: Object to the form.

Q. Mr. Wassong, do you believe that cigarette advertising has any effect on persuading consumers to smoke?

MR. YARBER: Object to the form.

A. Persuading people to start smoking?

Q. Any effect on persuading consumers to smoke.

MR. YARBER: Same objection.

A. No.

Q. And that's regardless of age; is that correct?

A. Yes.

Q. Have you, are you familiar with the Surgeon General's reports?

A. Yes.

Q. And have you read any of the Surgeon General's reports?

A. No.

Q. So it is safe to say, therefore, that

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you are not familiar with what the Surgeon General's reports have said about the effects of cigarette advertising on consumers; is that correct?

A. Yes.

Q. And so, therefore, you did not provide any of that information to the models who worked for your agency, correct?

A. Yes.

Q. Now before today have you spoken with any lawyers or other representatives of Mr. Landers in connection with this case?

A. Just Mr. Landers.

Q. You have spoken with Mr. Landers?

A. He originally contacted me.

Q. And when was that?

A. Two or three months ago.

Q. And before today, have you spoken with any lawyers representing the cigarette company Defendants in connection with this case?

A. No.

Q. Have you spoken with any investigators or other representatives of the cigarette company Defendants in this case?

A. I spoke to Mr. Landers the second time

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to set up --

MR. YARBER: I think, sorry to interrupt. Cliff, he and I had a conversation on the telephone, this is John Yarber. I think he was using Mr. Landers' name instead of mine.

A. I'm sorry.

Q. Mr. Wassong; is that correct?

A. That's correct. I'm sorry.

Q. Okay. So you spoke with Mr. Yarber about was it three months ago, you said?

A. Yes.

Q. And where did you speak with Mr. Yarber?

A. He contacted me by phone here in Tryon.

Q. Okay. Did you speak just the one time?

A. I think we spoke twice.

Q. And what did Mr. Yarber say to you and what did you say to him?

A. I can't recall the first conversation. He wanted to know about whether there had ever been a Winston Man. And the second conversation was to set up an appointment for this meeting.

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Q. "This meeting," by "this meeting," you're referring to this deposition; is that right?

A. Yes, sir.

Q. So that first call you said that Mr. Yarber asked you whether there was a Winston Man and you responded. And was that the extent of the entire conversation?

A. Yes, for the most part. He asked me why or, you know, or did we ever run a campaign with a Winston Man? And I told him that we never had an individual represent the brand in a national campaign.

Q. And was that the full extent of your conversation?

A. Yes.

Q. Have you seen any internal memos or research from R.J. Reynolds about the effects of advertising on smoking by youth or young adults?

MR. YARBER: Object to the form.

A. R.J. Reynolds had a strict policy that we -- our entire objective in advertising was to solicit competitive smokers only.

Q. And what do you mean by "competitive smokers"?

A. Winston competed with Viceroy,

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Marlboro, Pall Mall, Kent. And that, those smokers, were our target audience. And to the exclusion of anything else.

Q. And at what age did the target audience that you are referring to begin?

A. Twenty-five, I think.

Q. Your testimony is that the ads that you designed at William Esty for R.J. Reynolds targeted consumers of 25 years and older and not any younger than that? Is that right?

A. I honestly don't recall, but I know that we, our target was defined as competitive smokers only.

Q. Do you recall what the legal age of smoking was at the time you were working on the Winston account?

A. It may have been 18.

Q. So your testimony is that R.J. Reynolds directed you not to target legal smokers between the age of 18 and 25; is that right?

MR. YARBER: Object to the form.

A. Not to target? Was that your question?

Q. Yes.

MR. YARBER: Same objection.

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A. No. Our, our direction was to target current smokers of competitive brands.

Q. So, in other words, you're testifying that there was not a specific age restriction in that case?

A. I don't think, I don't think I ever heard the word "restriction." If Marlboro smokers were centered around 25 or so, that, that was our target.

Q. Well, are you speculating or you are testifying that that is specifically what you remember in terms of the age of the consumers that you were targeting?

A. I'm sorry, I really don't have a marketing plan that I can refer to and I honestly don't remember the exact age for a target. But competitive smokers were classified by age, and usually established smokers were well into their 20s.

Q. What do you, how do you define "established"?

A. Had been smoking a brand for two years or more.

Q. Did R.J. Reynolds direct you not to target smokers who were not yet quote/unquote

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"established"?

MR. YARBER: Object to the form.

A. No. There was no direction one way or the other.

Q. How did you know that the ads that were designed by your agency for Winston cigarettes did not reach those who were younger than 25 years old?

A. How did we know that they didn't? We didn't. An outdoor board reached everybody if they were interested in it.

Q. Let me ask you about some of the messages that your agency sought to convey in the ads that you produced for R.J. Reynolds. First question: Were the ads designed to convey a message that of sex appeal?

A. No.

MR. YARBER: Object to the form.

A. No.

Q. Were the ads designed -- were any of the ads designed to convey a message to consumers that they would be more popular if they smoked Winston cigarettes?

A. No.

Q. Tell me what your ads were conveying

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to them.

A. Our initial ads were conveying that it was the best tasting cigarette around. Later ads were designed to be competitive with the Marlboro cowboy image.

Q. What did the Marlboro cowboy image convey?

MR. YARBER: Object to the form.

A. Masculinity and independence, primarily.

Q. Those are the messages you are testifying that you were seeking to convey then with Winston in order to compete with Marlboro?

MR. YARBER: Object to the form.

A. Yes.

Q. And do masculinity or independence -- let me start that over.

As a specialist in advertising, is it your understanding that independence would be something of interest to high school students?

MR. YARBER: Object to the form.

A. I don't know.

Q. Mr. Wassong, do you have children?

A. Yes.

Q. And how old are they now?

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A. In their early 30s.

Q. And presumably you recall their growing up years?

A. I was divorced.

Q. Okay. Were you around your kids or in touch with your kids when they were in their teens?

A. Yes, on weekends to some degree.

Q. Speaking from your own personal experience, do you recall your kids when they were teenagers?

A. Yes.

Q. And do you recall their seeking to become independent people and assert themselves?

MR. YARBER: Object to the form.

A. I, I don't know in terms of my own children, no.

Q. Do you smoke, Mr. Wassong?

A. No.

Q. Did you ever smoke?

A. Yes.

Q. When was that?

A. When?

Q. Yes.

A. I think I smoked from maybe 1974 to 1980.

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Q. And what were your ages during that six- or seven-year period?

A. My age? Thirty-three or 34 to 40. Forty-plus, I think.

Q. You were with, with William Esty during those years?

A. Yes.

Q. What prompted you to smoke cigarettes starting at the unusual age of 33 or 34?

MR. YARBER: Object to the form.

A. Because I was working for R.J. Reynolds.

Q. Can you explain that answer more fully?

A. Yes. David Ogilvy, who was an advertising hero, once said that if you are going to work on a product you should use the product. And I took him at his word.

Also in those days when the company was run by Mr. Smith and Mr. Hobbs, they would actually have taste tests of like a wine tasting up in the Reynolds board room.

I was really interested in building my career on the Reynolds business, which was the agency's oldest account and it was kind of a tract

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record for promotion, et cetera, and I learned how to smoke. And I was taught by some people at Reynolds on how to taste cigarettes, which excluded inhaling. You tasted it like wine.

So I, I started smoking because it was the brand, it was the product I was advertising.

Q. Did you smoke Winstons?

A. I smoked Winstons, Winston Lights and Camel Regulars.

Q. What prompted you to quit in 1980?

A. I didn't like smoking any more.

Q. Why didn't you like smoking any more?

A. The taste of it, aftertaste.

Q. Were you concerned about your health when you quit?

A. No, I don't think so. I just decided to stop. I wasn't as deeply involved in the brand.

Q. You worked for the agency until was it 1992?

A. When we were acquired by Saatchi & Saatchi in 1986, there was kind of a phaseout contract at the time, I think it was five years. So it could have been '92.

Q. What was the year during which you stopped working in any fashion on the Reynolds

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account?

A. '86, I think.

Q. 1986? So you testified a couple minutes ago that, following the dictates of David Ogilvy, you had used Reynolds cigarettes because you were working for Reynolds and helping market their product; is that correct?

MR. YARBER: Object to the form.

A. Yeah. Yes.

Q. Based on your testimony, however, you quit in 1980 and then spent several years not using their product while working for them; is that correct?

A. Yes.

Q. Did you change your mind about the principle that you ought to use the product?

A. At the time the company was no longer run by Southern tobacco people, it was run by New York packaged goods marketers. They weren't interested in, in whether you smoked or didn't smoke; they, they were really interested in selling the company.

Q. What was the period of time during which you engaged in the visits to the RJR board room and took place in the taste tests?

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cigarette tray or box with the receptionist and you could take one cigarette. But once again, all of our employees were encouraged to buy all the products that we advertised. We didn't give our products away.

Q. When an employee took a cigarette from the tray or the box at the receptionist, they had to pay for that cigarette?

A. No.

Q. So they were able to take that for free, correct?

A. They were discouraged from doing so, that was for guests.

Q. I see, it was for guests.

Let me go back to a question I had asked earlier, I'm not sure whether I got a clear answer. Forgive me in case I missed it.

Let me ask you, sir, have you seen any internal memos on research from R.J. Reynolds about the effects of advertising on smoking by youth or young adults?

MR. YARBER: Object to the form.

A. No.

Q. Did you ever ask for that type of information from R.J. Reynolds?

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A. No.

MR. DOUGLAS: Thank you, no further questions at this time.

MR. YARBER: Kelly or Julie, do you have any questions.

MS. LUTHER: This is Kelly, no questions.

MS. FEIGELES: No questions.

MR. YARBER: Sir, I just have a couple of follow-up.

FURTHER EXAMINATION

BY MR. YARBER:

Q. Who is David Ogilvy?

A. David Ogilvy was the Chairman of the Board of an advertising agency called Ogilvy and Mather. He was frequently seen as the high priest of advertising and came up with some of the most notable campaigns in advertising history. And a lot of people read his precepts and guidance when you are starting out in advertising.

Q. Did he ever work for R.J. Reynolds?

A. I honestly don't know. I don't know if Ogilvy -- I think Ogilvy eventually after David Ogilvy retired may have had a cigarette account but I don't know.

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Q. Was it, was it William Esty's policy to encourage employees to use the products of all their clients, or just Reynolds?

A. All their, all their clients' products.

Q. Did anyone from R.J. Reynolds ever tell you you had to smoke to work on the Winston campaign?

A. Never.

Q. During your entire time working on the Winston campaign or any of the R.J. Reynolds tobacco campaigns, did you ever try to market to anyone under a legal age?

A. No.

Q. At any time during your tenure working on the R.J. Reynolds advertising campaigns, did R.J. Reynolds or anyone from the company ever tell you to market to anyone under the legal age for smoking?

A. No.

MR. YARBER: I have no further questions.

MR. DOUGLAS: I have one, one brief follow-up.

FURTHER EXAMINATION

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Byrd v. Lorillard www.industrydocuments.ucsf.edu/docs/jfgl0001

BY MR. DOUGLAS:

Q. Mr. Wassong, I believe you testified earlier that you had as a main objective to either increase or at least sustain Winston's dominance in the U.S. market; is that right?

A. Yes.

Q. And is it your testimony that, in order to increase or sustain Winston's dominance, the advertising campaigns that you designed for Winston cigarettes were not designed to recruit new smokers as opposed to existing smokers who were using other brands?

A. Yes, sir.

Q. You know, it, it's curious and I am curious about your reason for testifying that you didn't want to recruit new smokers even if they were adults. If you can explain that to me?

MR. YARBER: Object to the form.

A. I'll be glad to. The universe of total smokers was substantial. The universe of people starting was miniscule.

There was information from Reynolds research on it was called smoker volatility. People would become disenchanted with their brand and frequently would shop around or ask somebody

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else for a cigarette. That market was so substantial that it wasn't worth talking to anyone else except competitive smokers who may switch.

There just the enormity of other smokers was so great it just wouldn't be worth going around soliciting anyone else to start smoking.

Q. Is that the same approach that you took to selling products for Seagrams?

A. Yes. Although Seagrams was much less sophisticated, you know, in terms of advertising and marketing. The Seagrams really based or Seagrams' direction for advertising was awareness and their entire company was built on their sales force going out and placing product in bars and placing it in clubs. They just, they just wanted, they wanted people to know about that the brand existed; but there was truly nothing that I remember that was you could say motivational or encouraged nondrinkers to start drinking.

Q. Was there anything wrong with targeting consumers to become new smokers?

MR. YARBER: Object to the form.

A. It just wasn't worth it. And it was illegal.

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Q. Was it illegal to target people who were 20 years old and not yet smoking to encourage them to try and use the brand?

A. Once again, I don't remember what the legal demarcation was in the early '70s. If it was 21, we talked to smokers 21 and over.

Q. Well I understood your testimony earlier was to refer to 25 and older. Has your recollection changed?

MR. YARBER: Object to the form.

A. As I said, I don't have a recollection. I'm sorry, I just don't have a plan in front of me.

MR. DOUGLAS: Thank you, no further questions.

MR. YARBER: I have no further questions.

MS. LUTHER: No questions.

MS. FEIGELES: No questions.

MR. YARBER: We're done, we can go off the record.

THE VIDEOGRAPHER: This concludes the deposition of Laurence Wassong. The time is 1:23 p.m.

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(REPORTER'S NOTE: After a discussion off the record, reading and signing of the deposition by the witness was waived.)

(Whereupon, at 1:23 p.m. the taking of the instant deposition ceased.)

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CERTIFICATE OF REPORTER

STATE OF NORTH CAROLINA)

COUNTY OF POLK)

I, Sydney C. Silva, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Sydney C. Silva

SYDNEY C. SILVA
Registered Professional Reporter
Notary Public in and for the
County of Mecklenburg
State of North Carolina

My Commission expires May 16, 2006.

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